

Yacovone, Krista

From: Robin E Lampkin <relampkin@ashland.com>
Sent: Tuesday, October 21, 2014 5:08 PM
To: Cardiello, Frank; Gorin.Jonathon@epa.gov
Cc: Michael_Bourque@Praxair.com; Robert Brager; Hatfield, William S.; cotero@gibbonslaw.com; John M. Hoffman
Subject: Re: LCP Chemicals - Request for Good Faith Offer
Attachments: LCP Chem Req for Gd Faith Offer..pdf; 2014-10-20 LCP GNL Response Letter--IES Ashland.pdf

Dear All:

Attached please find Ashland's response and request for an extension regarding the LCP Chemical Request for Good Faith Offer Letter received on September 25, 2014.

Best Regards,

Robin.

Robin E. Lampkin | Senior Environmental, Product Regulatory & Trade Group Counsel
Ashland Inc. | 5200 Blazer Parkway | Dublin, OH 43017
☎ Tel : 614-790-3019 | 📱 Mobile: 614-271-3019 | 📠 Fax : 614-790-4268
✉ relampkin@ashland.com



From: "Cardiello, Frank" <Cardiello.Frank@epa.gov>
To: Robin E Lampkin/Law/CORP/Ashland@Ashland, "Michael_Bourque@Praxair.com" <Michael_Bourque@Praxair.com>
Date: 09/25/2014 04:06 PM
Subject: LCP Chemicals - Request for Good Faith Offer

Dear Counsel; Please see attached letter. Regards, Frank Cardiello

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 25 2014

URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ISP Environmental Services, Inc.
c/o Ashland Inc.
5200 Blazer Parkway
Dublin, OH 43017
Attn: Robin E. Lampkin, Esq.
Senior Environmental, Product Regulatory & Trade Group Counsel

Praxair, Inc.
Attn: Michael Th. Bourque, Esq.
Assistant General Counsel
Global Environmental and Safety
39 Old Ridgebury Road
Danbury, CT 06810

Re: Notice of Potential Liability and Consent Decree Negotiations
LCP Chemicals, Inc. Superfund Site, Linden New Jersey

Dear Counsel:

The U.S. Environmental Protection Agency ("EPA") has documented the release of hazardous substances into the environment at the LCP Chemicals, Inc. Superfund Site ("Site") located in the City of Linden, Union County, New Jersey. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601, et seq., and in response to these releases and the threat of future such releases, EPA has spent public funds and anticipates spending additional public funds.

Notice of Potential Liability

Under CERCLA and other laws, responsible parties may be held liable for any costs incurred by the government in taking response actions at the Site. The costs may include, but need not be limited to, expenditures for investigation, planning, cleanup of the Site, and enforcement actions. Responsible parties may also be subject to orders requiring them to take response actions themselves. Responsible parties under CERCLA include, among others, the current and past

owners and/or operators of a facility from which there has been a release or threatened release of hazardous substances, as well as persons who arranged for the transport for disposal or treatment of hazardous substances owned or possessed by such persons.

EPA has previously notified you that it considers you to be potentially responsible parties ("PRPs") under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), regarding this Site and, by this letter, EPA reiterates that it considers you to be PRPs for this Site. EPA encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

Response Action at the Site

In response to a release or a threat of a release of hazardous substances at the Site, EPA has taken response actions at the Site under the authority of the Superfund Program, including placing the Site on the National Priorities List ("NPL"). The NPL identifies and prioritizes sites that may warrant response action under CERCLA. A Remedial Investigation and Feasibility Study ("RI/FS") has been completed which identifies alternative remedies for addressing contaminated soils and groundwater at the Site. EPA issued a Record of Decision ("ROD") in February 2014 selecting a remedy for the Site.

The major components of the selected remedy include:

- Installation of a capping system to prevent direct contact with soils and exposure to mercury vapor;
- Treatment of the soil containing visible elemental mercury by mixing it with sulfur to convert the mercury to mercuric sulfide;
- Excavation and on-Site disposal of sediments and marsh soils from the Northern Off-Site Ditch and the downstream portion of the South Branch Creek;
- Restoration of the excavated areas;
- Controlled demolition of the Site's buildings, recycling of non-porous material and placement of porous material under the cap;
- Containment and collection of the overburden groundwater layer by a barrier wall and collection collection/disposal system;
- Groundwater monitoring; and
- Implementation of institutional controls in the form of a deed notice and a CEA.

Should you wish to examine any of the documents which form the basis for the remedial actions selected by the ROD, you may inspect copies of the administrative record during regular

business hours at EPA's offices in New York City or at the Linden Public Library, 31 East Henry Street, Linden, NJ. Please contact Jonathan Gorin at (212) 637-4361 if you wish to arrange an appointment to inspect the administrative record at the EPA office.

Notice of Consent Decree Negotiations

By this letter, EPA wishes to determine whether you are interested in fully financing and performing the remedial design and remedial actions ("RD/RA") for the remedy, as selected in the ROD. If you are interested in fully financing or performing the RD/RA, you must submit a written "good faith offer" to EPA on or before 30 calendar days after the date of this letter.

In order for your proposal to be considered a "good faith offer," it must be consistent with the ROD and must include the following elements:

1. A statement of your willingness to fully finance or perform the RD/RA for the remedy selected in and consistent with the ROD;
2. A demonstration of your technical capability to carry out the RD/RA, including identification of the firm(s) that may actually conduct the work or a description of the process you will use to select the firm(s);
3. A demonstration of your ability to finance the necessary response actions;
4. A statement of your willingness to reimburse EPA for all unreimbursed costs EPA incurred in connection with federal response activities at the Site;
5. A statement of your willingness to reimburse EPA for costs incurred in overseeing your conduct of the RD/RA; and
6. The name, address, and phone number of the individual(s) who will represent you in negotiations.

Any agreement to conduct the RD/RA must be finalized in a judicial consent decree pursuant to Section 122 of CERCLA. A draft consent decree and statement of work is attached to this letter. The draft consent decree contains many provisions that are based on EPA's model consent decree.

If EPA receives what it considers to be a good faith offer on or before 30 calendar days after the date of this letter, then negotiations will be held to conclude an agreement in a judicial consent decree. However, should EPA determine that a good faith offer has not been submitted by this date, EPA may thereafter initiate a federally-funded remedial action at the Site, the costs of which you may be held liable for under CERCLA. EPA may also take any enforcement action it deems necessary, including issuing administrative order(s) under Section 106(a) of CERCLA, to require you to carry out the necessary RD/RA.

Response Requested

Your response to this notice letter should be sent to:

Jonathan Gorin
Remedial Project Manager
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, NY 10007-1866

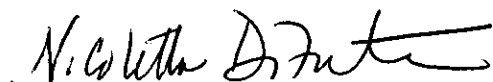
with a copy to:

Frank X. Cardiello
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866

EPA has decided not to use the special notice procedures set forth of Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), as EPA does not believe that those procedures would facilitate an agreement or expedite remedial action at the Site.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please call Jonathan Gorin at (212) 637-4361. Please direct all inquiries from an attorney to Frank Cardiello at (212) 637-3148. Thank you for your prompt attention to this matter.

Sincerely yours,



Nicoletta M. DiForte
Deputy Director

cc: Dennis Toft, Esq., Wolff & Samson
John Dickinson, Esq., NJ Div. of Law
Steve Mayberry, NJ Dept. of Environmental Protection
Jonathan Gorin, USEPA
Frank X. Cardiello, USEPA

Robin E. Lampkin
Senior Group Counsel

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relampkin-isabel@ashland.com

October 20, 2014

Jonathan Gorin
Remedial Project Manager
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, New York 10007-1866

Dear Mr. Gorin:

We write in response to the United States Environmental Protection Agency's ("USEPA") September 25, 2014 Notice Letter to ISP Environmental Services, Inc. ("IES")/ Ashland Inc. (collectively "Ashland") and Praxair, Inc. ("Praxair") regarding the LCP Chemicals, Inc. ("LCP") Superfund Site, Linden, NJ (the "Site").

As it appears that the Department of Justice ("DOJ") is looking for Ashland and Praxair to negotiate and come to an acceptable arrangement between the companies on a Consent Decree to address the Site, Ashland requests a 60 day extension from the current deadline of October 27, 2014 to provide EPA and DOJ with its response to the September 25th Notice Letter. This 60 day extension will afford Praxair, as well as Ashland's new outside counsel (William Hatfield and Camille Otero from Gibbons PC), an opportunity to get up to speed on this matter and to meet and confer on how the parties may wish to proceed at the Site.

In light of Praxair's involvement in this matter, Ashland will not conduct the treatability study at the present time but rather anticipates that the treatability study will be conducted under the Remedial Design for the Site.

We look forward to hearing from you and working cooperatively with EPA and others on this matter.

Regards,



Robin E. Lampkin

cc: Frank X. Cardiello, USEPA Region 2
Michael Th. Bourque, Praxair, Inc.
Robert S. Brager, Esq.
Carmille V. Otero, Gibbons P.C.
William S. Hatfield, Gibbons, P.C.